

**CASCADE COUNTY PLANNING BOARD**

October 30, 2018

9:00 am

Court House Annex

325 2<sup>nd</sup> Ave North

RECEIVED  
DEC 04 2018

Board Members: Mark Carlson, Richard Liebert, Elliott Merja, Rob Skawinski, Ken Thornton, Dan Johnstone, Dexter Busby

**Notice:** Pursuant to MCA 2-3-212(1), the official record of the minutes of the meeting is in audio form, located at [cascadecountymt.gov](http://cascadecountymt.gov) and the Clerk and Records Office. This is a written record of this meeting to reflect all the proceedings of the Board. MCA 7-4-2611 (2) (b). Timestamps are indicated in red, within each agenda item below, and will direct you to the precise location should you wish to review the audio segment.

These minutes are paraphrased to reflect the proceedings of the Cascade County Planning Board and are considered a draft until formally approved by the Planning Board.

**Staff Present:** Sandor Hopkins, Anna Ehnes, Michael Stone, Charity N Yonker and Natalia Wilson

**Attendees:** Dion W Turner, Kevin May, Ashley Friesen, Kristi Holmlund, Anthony Giger, Kirk Timmer, Jason Crawford, Judy Higgins and Jan Rowell

**1. Call to order:** Chairman Elliott Merja called the meeting to order at 9:01 am

**2. Roll call:**

**Board Members Present:** Mark Carlson, Elliott Merja, Dan Johnstone, Dexter Busby, Richard Liebert and Rob Skawinski

**Board Members Absent:** Ken Thornton

**3. Approval of Minutes:** September 18, 2018

Elliott Merja asked did everyone read the minutes, any comments?

Dexter Busby motion to approve

Mark Carlson second the motion

All in Favor, Motion passes 6-0

**4. New Business:**

**A. Moe Minor Subdivision-Removal of Agricultural Covenant**

**Staff Report:** Anna Weber 01:40

**Motions:**

**R0364356 CMS**

Total Pages: 9 R 0 00 By: tmarch 12/04/2018 10:51:20 AM  
Cascade County, Rina Ft Moore - Clerk & Recorder



"I move to recommend to the Cascade County Commission after consideration of the Staff Report and Findings of Fact that the Preliminary Plat of the Moe Minor be **denied**:

or

"I move to recommend to the Cascade County Commission after consideration of the Staff Report and Findings of Fact that the Preliminary Plat of the Moe Minor, be **approved**, subject to the following conditions:

1. Having the developer's surveyor correct any errors or omissions on the preliminary plat;
2. Causing to be prepared certificates of title of the land in the subdivision to be recorded in conjunction with the final plat;
3. Submitting with the plat a certificate of a title abstracter showing the names of the owners of record of the land and the names of any lien holders or claimants of record against the land (MCA 76-3-612)
4. Pursuant to 7-22-2152, MCA, submitting a written plan to the Cascade County Weed Board specifying the methods for weed management procedures with regards to this development.
5. Causing to be recorded on the plat a statement concerning limited public services.
6. Causing to be recorded on the plat an Agricultural Notification statement.
7. Obtaining approval for the proposed water and sewage disposal systems for state and /or local health departments.
8. Causing to be recorded in conjunction with the final plat, an agreement requiring property owners of each subdivision tract to take part in any Rural Special Improvement District (RSID) for the reconstruction, improvement or perpetual maintenance of any road that can be used to access the lots as determined by Cascade County, provide that all other property owners served by said road share equitably in such an RSID;
9. A letter certifying that Elk Drive meets Cascade County's Road Design Standards from a professional engineer licensed in the State of Montana.

**Board Discussion:**

**Elliott Merja** 06:09 asked anyone on the board have a question for the staff?

**Richard Liebert** 06:52 asked how long ago has this Agricultural Covenant been in place?

**Anna Weber** said a long time ago. This parcel and the one to the east were one parcel, when that split is when the covenant happened.

**Richard Liebert** asked who originated it?

**Anna Weber** 07:01 stated I would say the present owner Barbara Moe.

**Richard Liebert** said in recent memory, 10 years 20 years?

**Anna Weber** said I don't think even 20 years.

**Elliott Merja** 07:12 stated I saw something here about 2013, maybe I was wrong.

**Anna Weber** 07:19 said Kevin May might know.

**Kevin May** 07:29 stated in the eighty's. 2013 was to add an easement.

**Richard Liebert** asked there is no RSID now is there?

**Anna Weber** 07:36 said no Fox Farm RSID.

**Richard Liebert** stated I was asking because of the cause and effect.

**Elliott Merja** 07:50 said I saw something here that they couldn't opt out if there is one. Any other questions, is the developer here?

**Kevin May** 1324 13<sup>th</sup> Ave SW 09:03 with Civil Environmental we are representing the family, with the subdivision application. It is an existing parcel with an Ag covenant, we have met all the recommendations that were mentioned, we have the required information on our preliminary plat, we've received a county approach permit from the Road and Bridge Department, we have a weed plan in place, the DEQ has reviewed this plan and they are holding their approval contingent to the county approval of this subdivision process, basically all of our stuff is in a roll and ready, just waiting on the county process, any questions? I'm still waiting on when the Ag covenant was placed, but I believe it was in the 80's. The only change in the 2013 survey is to carve out an easement so that Barb can have a second access to her property.

**Elliott Merja** 10:17 asked do you know who the two home owners are next to this?

**Kevin May** 10:18 said this is Doctor Neal, this is Barbara herself and Scott Bloomfield here. (he showed in the map)

**Public Hearing opened at 9:12 a.m.**

**Opponents:** none

**Proponents:** none

**Public Hearing Closed 9:12 a.m.**

**Richard Liebert made a motion** "I move to recommend to the Cascade County Commission after consideration of the Staff Report and Findings of Fact that the Preliminary Plat of the Moe Minor, be approved, subject to the following conditions:

1. Having the developer's surveyor correct any errors or omissions on the preliminary plat;
2. Causing to be prepared certificates of title of the land in the subdivision to be recorded in conjunction with the final plat;
3. Submitting with the plat a certificate of a title abstracter showing the names of the owners of record of the land and the names of any lien holders or claimants of record against the land (MCA 76-3-612)
4. Pursuant to 7-22-2152, MCA, submitting a written plan to the Cascade County Weed Board specifying the methods for weed management procedures with regards to this development.
5. Causing to be recorded on the plat a statement concerning limited public services.
6. Causing to be recorded on the plat an Agricultural Notification statement.
7. Obtaining approval for the proposed water and sewage disposal systems for state and /or local health departments.
8. Causing to be recorded in conjunction with the final plat, an agreement requiring property owners of each subdivision tract to take part in any Rural Special Improvement District (RSID) for the reconstruction, improvement or perpetual maintenance of any road that can be used to access the lots as determined by Cascade County, provide that all other property owners served by said road share equitably in such an RSID;

9. A letter certifying that Elk Drive meets Cascade County's Road Design Standards from a professional engineer licensed in the State of Montana.

**Rob Skawinski 11:51 seconded motion**

**All in favor Motion Carries 6-0**

**B. River Bend Estates-Major Subdivision**

**1. Staff Report Sandor Hopkins**

**Motions:**

"I move to recommend to the Cascade County Commission after consideration of the Staff report and Findings of Fact, **deny**, a major subdivision, a preliminary plat of River Bend Estates;

Or

"I move to recommend to the Cascade County Commission after consideration of the Staff Report and Findings of Fact, adopt said Staff Report and Findings of Fact and **approve**, a major subdivision, a preliminary plat of River Bend Estates, subject to the following conditions;

1. Having the developer's surveyor correct any errors or omissions on the preliminary plat;
2. Causing to be prepared certificates of title of the land in the subdivision to be recorded in conjunction with the final plat;
3. Submitting with the plat a certificate of a title abstracter showing the names of the owners of record of the land and the names of lien holders or claimants of record against the land (M.C.A. 76-3-612, 2017).
4. Causing to be recorded in conjunction with the final plat the covenants of the Major Plat that contain, at a minimum, a noxious weed control program, an erosion control program, a limit to livestock and pets, a provision prohibiting commercial or industrial uses, and that impose upon all landowners the exclusive responsibility to improve and maintain the public rights of way created by and indicated on the subdivision plat.
5. Causing to be recorded in conjunction with the final plat homeowners' association documents with sufficient authority and procedural mechanisms to administer, enforce, and fund the perpetual maintenance and discretionary improvement of the public rights of way created by and indicated on the subdivision plat.
6. Causing to be recorded on the plat a statement concerning limited public services.
7. Pursuant to 7-22-2152 M.C.A. (2017), Submitting a written plan to the Cascade County Weed Board specifying the methods for weed management procedures with regards to this development.
8. Causing to be recorded on the plat an Agriculture Notification statement.
9. A lot dedicated to parkland and the homeowner's association, no smaller than 1.27 acres, or 1.62 acres as shown on the preliminary plat.
10. Causing to be recorded in conjunction with the final plat, an agreement requiring property owners to each subdivision tract to take part in any Rural Special Improvement District (RSID) for the reconstruction, improvement or perpetual maintenance of Flood Road, or any county road in the vicinity used to access the major subdivision, River Bend Estates, or any other road that can be used to access these lots as determined by Cascade County, provided that all other property owners served by said road share equitably in such RSID. This waiver shall expire 20

years after the date the final plat is filed with Cascade County, this statement of waiver shall be placed on the final plat.

11. Design, construction, inspection and certification, by a licensed professional engineer, of all internal private roads and cul-de-sacs to Cascade County Subdivision Road Specifications, as well as the purchase and installation of all required street signs and stop signs. All of the above items to be at the developer's expense and to be completed prior to the approval of the final plat.
12. The inclusion on the major plat a statement provided by Cascade County certifying the status of the internal subdivision roads.
13. The inclusion of setbacks in the covenants as required by the Cascade County Zoning Regulations.
14. Montana Department of Environmental Quality (MDEQ) Certificate of Subdivision Approval (COSA) shall be submitted with the final plat.
15. Cause to be filed with final plat a declaration of covenant that declares that all of the properties described shall be held, sold and conveyed subject to the following covenant with shall run with the real property and be binding on all parties having any heirs, successors and assigns, and shall bind each owner thereof. The covenant may be revoked for any or all parcels within the subdivision upon mutual consent of the owners of the parcels in question and the governing body of Cascade County.
16. A 16,000 gallon fire suppression cistern installed on-site, properly maintained and equipped with the proper appurtenances for the Gore Hill Volunteer Fire Department to use for firefighting at all times. Provide the developers install and the homeowners association maintain an accessible approach for access to the cistern at all times.
17. The homeowners association shall be responsible for the continual maintenance of the equipment subject to adequate inspections by the Fire Chief of the Gore Hill Volunteer Fire Department to insure the equipment is being properly maintained.
18. MDEQ approval for the proposed site grading and drainage and stormwater conveyance system shall be submitted prior to final plat approval. Additionally, final engineering plans, stamped by a professional engineer in the State of Montana, shall be submitted to the Cascade County Planning Division with the final plat submittal.
19. A copy of the MDEQ General Discharge Permit for Stormwater associated with construction activity shall be submitted prior to final plat approval, if applicable.

**Board Discussion:**

**Elliott Merja** asked is there any questions for the staff?

**Mark Carlson 21:01** asked how many gallons per residence?

**Sandor Hopkins 21:04** responded, 500 per residential lot and a minimum of 10,000 plus 500 per lot.

**Richard Liebert** asked about the RSID, and if anybody in the HOA can protest the RSID

**Sandor Hopkins** stated there would be the waiver statement, so they would not be able to protest the RSID, I suppose they could always take the issue up with the Department of Revenue. However, the condition on the plat would exclude that.

**Rob Skawinski 22:18** question on the park land dedication, I know it's a requirement but it kind of turns into a field that nobody takes care of and a weed patch, is that something that we can waive?

**Sandor Hopkins** said we could accept cash in lieu, but I don't believe we can completely waive those

requirements.

**Dexter Busby** asked does the developer have the responsibility for the park land?

**Sandor Hopkins** said the homeowner's association does.

**Elliott Merja** 23:49 said if that happens somebody from the HOA has to report it, to the weed and mosquito department. Any more questions? Hearing none would the developer like to speak?

**Jason Crawford** 23:56 800 Last Chance Gulch (Helena, MT) from Triple Tree Engineering, representing Rick and Judy Higgins, I don't have much to add to it, except that in the document we have prepared preliminary road plans. We've also prepared water and sewer in accordance with Cascade County requirement. We are putting cluster mail boxes as requested by the post office, we have an EA (environmental assessment), we contacted several environmental offices (DEQ, US Forest Service, FWP, Montana Natural Heritage Program, Historical Society, Montana DNRC, and Cascade Conservation District) so all of those folks, and all of their comments have been considered in our environmental evaluation. We have begun implementing the weed plan. We are on track to submit to DEQ as soon as we have your guys' blessing to move forward. I'm here to answer any questions that anybody might have.

**Richard Liebert** 26:02 What is the status of the other 142 acres?

**Jason Crawford** 26:10 answered currently it is just the reminder of the subdivision, we may or may not develop it.

**Richard Liebert** asked are cows going to graze on it?

**Jason Crawford** said, I think they'll put a little hay on there, that's been done in the past.

**Richard Liebert** said, being a rancher, I'm always curious about that. How many lots are anticipated to be sold in the near future verses long term?

**Jason Crawford** 26:53 said hopefully all of them will be sold.

**Richard Liebert** stated that will make the HOA grow, how about the drainage?

**Jason Crawford** said currently the drainage does cross under Flood Road, that's why Rick reached out to the Cascade Conservation District and got their input on whether or not there would be any required permitting to cross that. They've indicated no 310 permits, said we didn't require any permitting because it doesn't see water except on an extreme event.

**Public Hearing opened at 9:28 a.m.**

**Opponents:** none

**Proponents:**

**Antone Giger** 24:25 8300 Fox Farm Rd. I am a neighbor and I'm in favor.

**Kirk Timmer** 29:48 4104 15 Ave S Silverstone Enterprises stated houses in the county are much larger. Demand from people that want 2 to 3 acres is growing demand for smaller lots. I spent time with the developer, the plan is well thought out and, the subdivision fits well with the county.

**Ashely Friensen** 30:45 10 Hillcrest Ln. I'm a neighbor and a realtor they have done a nice job. There is a high demand for the 1 and 2 acre lots. People want to be outside of the city but also want the "community feel", and nice development of the area.

**Public Hearing Closed 9:33 a.m.**

**Dexter Busby** asked who enforces the covenants?

**Jason Crawford** stated the HOA.

**Richard Liebert** explained the reason for larger lots is DEQ guidelines for septic systems and wells.

**Sandor Hopkins 33:18** stated there is a statement that they are exempt from water rights based on the size of the development.

**Dexter Busby 33:41** motion "I move to recommend to the Cascade County Commission after consideration of the Staff Report and Findings of Fact, adopt said Staff Report and Findings of Fact and approve, a major subdivision, a preliminary Plat of River Bend Estates, subject to the following 19 conditions: (Conditions on pg. 5)

**Mark Carlson** seconded the motion

All in favor 6-0 motion carries

### **C. Conservation Easement 02-2018 Schmit and Hammen**

**Staff Report: Michael Stone**

44:50

**Board Discussion:**

**Elliott Merja 45:04** stated the development area 3 is right up against area 2, why was there a consideration for area 3 being not so good when that is right up against area 2?

**Michael Stone 45:14** said because area 3 enters into the floodplain. (showed on the map)

**Richard Liebert 45:50** asked is this land currently being farmed or grazed?

**Michael Stone 46:03** answered grazing and one is cropland.

**Richard Liebert 46:13** asked will it remain in that status that it can be grazed?

**Michael Stone 46:17** said yes, I think that's the intent.

**Elliott Merja 46:20** said, yes this is just to prevent being developed into some subdivision.

**Richard Liebert 46:30** asked what kind of developments are allowed.

**Michael Stone 46:39** stated they are allowed 3 residential units and associated buildings (They can transfer as no more than 3 parcels)

**Richard Liebert 46:27** commented on financial dynamic of this I like to follow the money I'd like to know where it comes from and how much.

**Elliott Merja 47:50** mentioned have you ever asked them how much? I would suppose it's based on what the value might be.

**Michael Stone 47:54** said there is also tax incentives

**Rob Skawinski 48:04** said I think its public record once it is done.

**Richard Liebert 48:16** stated I'd just like to know where the money comes from. It's a good thing to keep the land for grazing and from local development.

**Dexter Busby 48:37** asked about the mineral rights and natural resources.

**Elliott Merja 48:41** asked can somebody come in and drill for oil?

**Michael Stone 48:53** responded with exempt from the mining lease.

**Dexter Busby 49:56** expressed concern that mineral estates could be problematic. (because there is no language about a third party)

**Elliott Merja 52:36** said so that we are all on the same page, we are not here to make a decision one way or the other. We are here to make a comment or voice our concerns.

**Dexter Busby 52:55** said that he is still concerned with the language regarding mineral rights and mining potential.

**Elliott Merja 52:57** stated I just found out that this easement can be revoked.

**D. Conservation Easement 03-2018 Boyle**

**Staff Report: Michael Stone**

1:00:42

**Board Discussion:**

**Richard Liebert** 1:00:56 asked if any of the adjacent land owners were contacted.

**Michael Stone** 1:01:05 stated not through our process.

**Richard Liebert** 1:01:19 asked about tax benefits.

**Michael Stone** 1:01:23 stated for what is worth there is a line here that says that the land owners will not seek a tax deduction for the property.

**Richard Liebert** 1:01:42 asked if it cost the county tax revenue.

**Michael Stone** 1:01:48 said one way it does is if it decreases the property value.

**Richard Liebert** 1:01:58 therefor that would be removing revenue for the county, plus they are getting compensation from NLR.

**Michael Stone** said I am not entirely sure how they get compensated.

**Dexter Busby** 1:02:50 restated concern for mineral rights.

**Elliott Merja** 1:03:27 stated I, being somebody that is in that area too, I would say that it is an important part where they made it so there could be another 2-acre plat so there could be somebody else living there by moving the land from ag. production.

**Michael Stone** 1:04:16 stated that they contradict each other, so I pointed out con and pro.

**5. Old business: none**

**6. Board Matters:**

**Sandor Hopkins** talked about the potential for a November 20th meeting, Sandor said "I see Dexter shaking his head over there." It's not set in stone just trying to get a feel for schedules.

**Dexter Busby** said he would be gone the first two weeks in Dec. for surgery.

Everyone else said they would be around.

**7. Public Comments Regarding Matters within the Board's Jurisdiction: none**

**8. Adjournment: 9:28 a.m.**

**Richard Liebert** motion to adjourn

**Dexter Busby** Seconded the motion

All in favor 6-0



Elliott Merja or Mark Carlson

Date

12/4/18

Date

Alex Daehs

Sandor Hopkins